CIVIL WRIT JURISDICTION CASE No.653 OF 1990

In the matter of an application under Articles 226 and 227 of the Constitution of India.

SATYA NARAIN ROY, son of Shri Baleshwar Roy, resident of village Ladaniya, Police Station – Andhra Math, District – Madhubani

---------- Petitioner

Versus

1. THE STATE OF BIHAR
2. The Bataidari Magistrate, Jhanjharpur, having his office at Jhanjharpur, P S – Jhanjharpur, District – Madhubani.
3. The Anchal Ahdikari, Laukahi, having his office at Laukahi, P.S. Laukahi, District – Madhubani.
4. Jagannath Mehta son of late Shyam Narayan Mehta, resident of village – Marhaura, P S Marhaura, District – Saran.
5. Shri Kant Roy son of Sri Lakshmi Roy, resident of Village – Ladaniya, P.S. Andhra Math, District - Madhubani

---------- Respondents

For the petitioner: M/S. Birendra Prasad Verma (Sr. Advocate), Dr. Mrityunjaya Kr. Gautam, Yogendra kumar, Ram Naresh Roy and Manish Kumar.

For the respondents : None.

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P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

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A K Tripathi, J Vide an order dated 2.12.1991 a Division Bench of this Court allowed the writ application and quashed the order dated 4.1.1990 contained in annexure-2. The reason for allowing the writ application was that the order of the Collector first referring the matter under section 48E to a Board of Arbitrators and thereafter recalling that order and taking charge of the case was in teeth of decisions in this regard rendered by Patna High Court. The two decisions recorded in the order is 1978 BBCJ 750 and 1979 BBCJ 521 (Spl. Bench).

2. The only reason why the order dated 2.12.1991 was

recalled on 22.7.1992 was because the private respondents had not been heard even though they supposedly had filed their appearance and affidavit.

3. When the matter is taken up there is no representation on behalf of the private respondents but it is urged by the learned senior counsel that there is no error in the initial order which had been passed by the Division Bench on 2.12.1991.

4. Since annexure-2 was in teeth of the judicial pronouncement, based on legal question which has not undergone a change, the writ application is allowed and annexure-2 dated 4.1.1990 stands quashed.

5. Since annexure-2 stands quashed there will be necessity for the matter to be decided by the Board, if necessary, by reconstitution as the earlier constitution was effected on 10.11.1989 almost 20 years ago.

(Ajay Kumar Tripathi, J)

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Patna High Court:
The 25th November, 2008.
NAFR (R K Pathak).